

Congressman Jesse Jackson, Jr., today said, "Some will argue that the Senate deal was a win-win-win for the Senate, Democrats and Republicans. I argue that it was essentially a bad deal, but I admit that it contained a mixed bag of pluses and minuses.

"It was a *defeat* for Senator Bill Frist and those Republicans who wanted to violate Senate rules and Senate tradition. It was a *defeat* for those conservatives who are committed to the principle of 'all or nothing,' like the extremist, the Rev. James Dobson of Focus on the Family, who called the deal 'a complete bailout and betrayal by a cabal of Republicans.' It was a *defeat* for those of us who are opposed to putting three right-wing extremist nominees - Janice Rogers Brown, William Pryor and Priscilla R. Owen - on a federal bench for lifetime appointments. Confirming them will mean taking a dramatic step backwards for civil society and the rule of law.

"But it was a *victory* in that all members of the group of fourteen compromisers, the so-called moderates, *rejected* Sen. Frist's central argument - that judicial filibusters are unconstitutional. The compromise acknowledges the right of senators to filibuster judicial nominees - at least in 'extraordinary circumstances.'

"The deal is *confusing* if you listen to how some conservative Senators interpreted what the agreement actually says. Senator Mike DeWine (R-OH) said, 'if an individual senator believes in the future that a filibuster is taking place under something that's not extraordinary circumstances, we of course reserve the right to do what we could have done tomorrow, which is to cast a yes vote for the constitutional option.' But that's not what the agreement says. Section IIB says: 'In light of the spirit and continuing commitments made in this agreement, we commit to oppose the rules changes in the 109th Congress.' Section IIA makes clear that senators maintain their commitment to the agreement as long as they only filibuster in 'extraordinary circumstances,' *a determination to be based on 'their own discretion and judgment.'*

So Sen. DeWine can't go nuclear simply because *he decides* the filibuster is being used in something other than 'extraordinary circumstances.' Rather, based on the language of the agreement, the deal would only dissolve if senators filibuster without making a good faith determination - based on their 'own discretion and judgment,'

*not DeWine's discretion and judgment*

- that there were extraordinary circumstances," concluded Jackson.